

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

03 CR 0412 (NG)

Plaintiff,

-against-

ORDER

NUMAN MAFLAHI, a/k/a Rafiq Taleba,

Defendant.

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**GERSHON, United States District Judge:**

This case is before me on remand from the Court of Appeals for the Second Circuit for further proceedings in conformity with *United States v. Booker*, \_\_\_ U.S. \_\_\_, 125 S.Ct. 738 (2005), and *United States v. Crosby*, 397 F.3d 103 (2d Cir. 2005). By order dated June 9, 2005, I instructed the parties that, in determining whether to resentence defendant, the court would consider whether, under the circumstances existing at the time that the original sentence was imposed, the original sentence would have been materially different had the United States Sentencing Guidelines (the “Guidelines”) been advisory, and directed the parties to brief the issue accordingly.

Having reviewed the parties’ submissions, I now conclude that the original sentence imposed on defendant would not have been materially different had the Guidelines been advisory. Therefore, a resentencing is not required and will not be ordered.

**SO ORDERED.**

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/S/  
**NINA GERSHON**  
**United States District Judge**

Dated: Brooklyn, New York  
August 30, 2005